

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DOUGLAS M. MARTIN,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS & REHABILITATION,
et al.,

Defendants.

No. 1:23-cv-00822-SAB (PC)

ORDER VACATING ORDER TO SHOW
CAUSE AND GRANTING PLAINTIFF
THIRTY DAYS TO FILE AN AMENDED
COMPLAINT

(ECF No. 9)

Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983.

On July 24, 2023, the Court screened Plaintiff's complaint, found no cognizable claim, and granted Plaintiff thirty days to file an amended complaint. (ECF No. 8.) Plaintiff failed to file an amended complaint or otherwise responded to the Court's order. Therefore, on September 5, 2023, the Court issued an order to show cause why the action should not be dismissed. (ECF No. 9.) Plaintiff filed a response on September 15, 2023. (ECF No. 10.) In his response, Plaintiff states that he did not receive the September 5, 2023 order until September 11, 2023, and he had trouble responding to the screening order. (Id.) Plaintiff continues to argue that the factual allegations in his complaint state a cognizable claim. (Id.) However, Plaintiff is advised that the Court's July 24, 2023, screening order provided Plaintiff with the applicable legal

standards and the deficiencies in his complaint. Plaintiff's option now is to file an amended complaint in accordance with the Court's July 24, 2023 screening order.

Accordingly, it is HEREBY ORDERED that:

1. The September 5, 2023 order to show cause is VACATED;
2. Plaintiff is granted thirty (30) days from the date of service of this order to file an amended complaint; and
3. Plaintiff's failure to comply with this order will result in a recommendation to the district judge dismiss the action for failure to comply with a court order, failure to prosecute, and failure to state a cognizable claim for relief.

IT IS SO ORDERED.

Dated: September 18, 2023

A handwritten signature in blue ink, appearing to read "Emily A. Be", is written over a horizontal line.

UNITED STATES MAGISTRATE JUDGE